

REMARKS

I. Introduction

Claims 15 to 28 are pending in the present application. In view of the following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

Applicant notes with appreciation the acknowledgment of the claim for foreign priority and the indication that all copies of the certified copies of the priority documents have been received from the International Bureau.

II. Objection to Claim 15 Under 35 U.S.C. § 112

Claim 15 was objected to as having insufficient antecedent basis for “the analog signal,” and having omitted an allegedly essential step. Regarding the alleged lack of antecedent basis, claim 15 recites “an analog signal” in line 3, thereby providing sufficient antecedent basis for “the analog signal.” Regarding the omission of an alleged essential step, the Specification does not describe “[t]he step of producing an analog signal” as being necessary to practice the claimed subject matter. As such, claim 15 fully complies with 35 U.S.C. § 112 in this regard. Applicants therefore respectfully request that this objection be withdrawn.

III. Rejection of Claims 15 and 23 Under 35 U.S.C. § 102(b)

Claims 15 and 23 are rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 6,804,042 (“Mattox”). It is respectfully submitted that Mattox does not anticipate claims 15 and 23 for at least the following reasons.

As an initial matter U.S. Patent No. 6,804,042 does not constitute prior art against the present application under 35 U.S.C. § 102(b). In this regard, U.S. Patent No. 6,804,042 issued on October 12, 2004, which is not more than one year prior to the December 14, 2004 international filing date of the present application. Withdrawal of this rejection is therefore respectfully requested. Notwithstanding the foregoing, it is respectfully submitted that Mattox does not anticipate the present claims for the following additional reasons.

Claim 15 relates to a method for triggering a heterodyne interferometer, comprising, in relevant part, forming at least two of a first modulation frequency, a second modulation frequency and a sampling frequency from a fundamental frequency of a common oscillator. Mattox does not disclose, or even suggest, forming at least two of a first

modulation frequency, a second modulation frequency and a sampling frequency from *a fundamental frequency of a common oscillator*.

To anticipate a claim, each and every element as set forth in the claim must be found in a single prior art reference. Verdegaal Bros. v. Union Oil Co. of Calif., 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Furthermore, “[t]he identical invention must be shown in as complete detail as is contained in the . . . claim.” Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). That is, the prior art must describe the elements arranged as required by the claims. In re Bond, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). Also, to the extent that the Examiner is relying on the doctrine of inherency, the Examiner must provide a “basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics necessarily flows from the teachings of the applied art.” See M.P.E.P. § 2112; emphasis in original; and see, Ex parte Levy, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990).

Because Mattox does not disclose, or even suggest, forming at least two of a first modulation frequency, a second modulation frequency and a sampling frequency from *a fundamental frequency of a common oscillator*, Mattox does not disclose each and every feature as set forth in claim 15. Therefore, Applicant respectfully requests that the rejection of claim 15 be withdrawn.

Claim 23 relates to a device and includes features analogous to features included in claim 15. Thus, for at least the reasons stated above with respect to claim 15, Mattox does not disclose each and every feature as set forth in claim 23. Therefore, Applicant respectfully requests that the rejection of claim 23 be withdrawn.

IV. Rejection of Claims 16 to 21 and 24 to 28 Under 35 U.S.C. § 103(a)

Claims 16 to 21 and 24 to 28 were rejected under 35 U.S.C. § 103(a) as unpatentable the combination of Mattox and U.S. Patent No. 6,249,155 (“Hartman”). It is respectfully submitted that Mattox in view of Hartman does not render unpatentable claims 16 to 21 and 24 to 28 for at least the following reasons.

Claims 16 to 21 depend from claim 15 and therefore include all of the features of claim 15. As stated above with respect to claim 15, Mattox does not disclose, or even suggest, forming at least two of a first modulation frequency, a second modulation frequency and a sampling frequency from *a fundamental frequency of a common oscillator*. Neither does Hartman cure these deficiencies of Mattox. Therefore, the combination of Mattox and Hartman does not disclose, or even suggest, all of the features of claims 16 to 21. For at least

the foregoing reasons, Applicant respectfully requests that the rejection of claims 16 to 21 be withdrawn.

Claims 24 to 28 depend from claim 23 and therefore incorporate all of the features of claim 23. As stated above with respect to claim 23, Mattox does not disclose, or even suggest, forming at least two of a first modulation frequency, a second modulation frequency and a sampling frequency from *a fundamental frequency of a common oscillator*. Neither does Hartman cure these deficiencies of Mattox. Therefore, the combination of Mattox and Hartman does not disclose, or even suggest, all of the features of claims 24 to 28. For at least the foregoing reasons, Applicant respectfully requests that the rejection of claims 24 to 28 be withdrawn.

V. Claim 22

Claim 22 was not addressed in the Office Action. To the extent that claim 22 contains allowable material, Applicant respectfully requests that the Examiner indicate the allowable subject matter.

VI. Conclusion

It is therefore respectfully submitted that all of the presently pending claims are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully Submitted,

Clifford A. Ulrich, Reg. No. 42,194 for:

Dated: 06/11/2008

By: /Gerard A. Messina/
Gerard A. Messina
Reg. No. 35,952

KENYON & KENYON LLP
One Broadway
New York, NY 10004
(212) 425-7200
(212) 425-5288

CUSTOMER NO. 26646